

# Subcontractor Agreement

THIS AGREEMENT, made July 24<sup>th</sup>, 2019

Twin K Construction, Inc.

Hereinafter called the Contractor, and:

UMA, Geotechnical Construction, Inc.

Hereinafter called the Subcontractor.

For the consideration hereinafter named, the said Subcontractor covenants and agrees with said Contractor, as follows:

**FIRST.** The Subcontractor agrees to furnish & deliver material for various projects as mutually agreed under tis general Subcontractor Agreement. Each project to be specifically defined in the Attachment Schedule A Scope of Work

## Project Scope Schedule A Scope of Work

Whereas, the Subcontractor has read and is familiar with all parts and provisions of the Prime Contract and all respective rights, powers, conditions and liabilities of the Contractor and the Owner:

Now therefore, in consideration of the premises and the mutual covenants herein contained, the parties agree as follows:

The parties hereby agree that the portion of the Prime Contract specified above shall be performed by the Subcontractor in accordance with the provisions stated herein. All terms and conditions of the Prime Contract between the Owner and The Contractor are incorporated herein by reference and binding on the Subcontractor. Work to be performed, including but not limited to all labor, equipment, materials, tools, supplies, transportation, fuel, utilities, facilities and services(except those expressly provided for in the Contract Documents to be furnished by the Contractor or the Owner)are as follows in attached **Schedule A.**

### 2. Items to be furnished by Contractor:

**As Stated in Schedule A**

### 3 . Time of Performance

The Subcontractor hereby agrees that the work under this subcontract is to be commenced, constructed, maintained and completed in accordance with the project schedule to be issued by the Contractor to the Subcontractor, such schedule will be mutually agreed upon and shown in Schedule A. Subcontractor acknowledges that at the time of execution of the Subcontract, Contractor is in the process of developing a detailed Working Schedule pursuant to a requirement of the Prime Contract and therefore, commencement and completion dates of the Subcontractor's work as well as

sequences and interrelationships between the Subcontractors Work and the work of other subcontractors have not been fully determined. Nevertheless, Subcontractor warrants that the Subcontract Price takes into account the necessary sequencing and scheduling of its workforces and materials to accommodate completion of the Project by the Contractor's planned completion date. Contractor and Subcontractor may, by mutual agreement, make reasonable modifications to the Working Schedule as the Project progresses.

Subcontractor shall furnish any information requested by Contractor required for scheduling, monitoring or expediting the Work.

Upon request of Contractor, Subcontractor shall have a representative present at Progress Meetings whether or not Subcontractor's forces are performing on the Project. Any such required meetings for Subcontractors will be given 72 hours' notice. Subcontractors shall prosecute its work in a prompt and diligent manner in accordance with Contractor's Working Schedule, without delaying or hindering Contractor's work or the work of other contractors or subcontractors. Subcontractor shall coordinate the work covered by this Agreement with that of all other contractors, subcontractors and of the Contractor, in a manner that will facilitate the efficient completion of the entire work.

In the event Subcontractor fails to maintain its part of the Contractor's Working Schedule as shown in exhibit A, it shall, without additional compensation, accelerate the Work as contractor may direct until Subcontractor's work is in accordance with such schedule. Contractor shall have complete control of the premises on which the work is to be performed and shall have the right to decide the time and order in which various portions of the work shall be installed and the relative priority of the work of subcontractor on the site. In order to secure the execution of the Subcontractor's work within the time specified, the contractor shall have the right, in addition to all other rights, to supplement Subcontractor's performance and/or perform all or any portion of Subcontractor's work. Any supplemental work or work performed for, or on behalf of, the subcontractor shall be at the Subcontractor's sole expense, and the Contractor shall deduct from the Contract Price all such expenses, including but not limited to liquidated damages. Contractor will provide Subcontractor weekly updates on project progress and any deficiencies noted. Prior to requiring any action by Subcontractor and prior to supplementing the Subcontractor's work, the Contractor shall give the Subcontractor 72 hours' written notice to commence and continue correction of any noted deficiencies.

#### **4. COMPENSATION, PAYMENTS, AND FINAL PAYMENT**

Contractor agrees to pay Subcontractor for expeditious, correct and complete performance of the Subcontract, on a per unit cost basis in accordance with attached Schedule "A" Partial payments will be made to the Subcontractor within (15) days of receipt of payment by Contractor from Owner, but no later than 45 days from the receipt of a properly submitted pay application and is not conditional upon any receipt of payment from the Owner. Payments will be based on estimates as work progresses made by the Contractor and/or Owner. If Contractor shall fail to make payment to Subcontractor when due, Subcontractor may, upon seven days' written notice to Contractor, stop the work until payment of the amount owing has been received by Subcontractor. The contract time and contract sum shall be adjusted to account for the Subcontractor's reasonable costs of shutdown, de-mobilization, delay, re-mobilization and any other reasonable costs associated with having to stop work.

Retainage in the amount of 10%( ) will be withheld from all progress payments due the Subcontractor and will not be released until project completion and acceptance by owner. Final Payment will be made to Subcontractor within Fifteen (15) days following receipt of Payment by Contractor from Owner, but no later than 45 days from the receipt of a properly submitted pay application and is not conditional upon any receipt of payment from the Owner. No Payments shall become due or payable, at the option of the Contractor, unless and/or until the Subcontractor has furnished evidence to the Contractor that all labor, rental equipment, materials, tools, supplies, transportation, fuel, utilities, facilities, services, etc., used on or for the referenced project have been paid. No payment will be evidence of either performance or acceptance of Subcontractor's work or materials. If the Subcontractor neglects or refused to pay any account that Contractor determines is legitimately incurred in the performance of this agreement, the Contractor reserves the right to pay such account directly after twenty-four (24) hours written notice to the Subcontractor and Contractor furthermore reserves the right to make payments by joint check to the Subcontractor and any entity which has supplied services or materials to the Subcontractor in performance of this agreement. Subcontractor shall supply Contractor with a list of suppliers upon request.

Upon final completion and final acceptance of all work required hereunder and subject to any contingencies of this agreement, the balance of the amount due to the subcontractor will be paid after the Contractor has been furnished with a release, if requested by contractor, of all claims of all parties who have furnished labor, materials, tools, supplies, transportation, fuel, machinery, equipment, facilities, services or other items of value for the performance of the subcontractors work,. No Payment except the final payment, shall be evidence of the performance of the Subcontractor's Work, either wholly or in part, and no payment shall be construed to be an acceptance of defective work or improper materials. In the event the Owner should at any time, even after final acceptance, determine, that the Subcontractor's work is in any way defective or unacceptable, Subcontractor agrees to refund such monies as have been paid for such defective work as determined by Owner's Engineer of Record.

## **5.: INSURANCE REQUIRED**

Subcontractor shall procure and maintain Unemployment and Worker's Compensation Insurance, General Liability Insurance, Automobile Liability Insurance and other such insurance as may be required by the Contractor or the Prime Contract. Satisfactory evidence of such shall be provided to the Contractor prior to the Subcontractor commencing work.

- The Subcontractor shall take out and pay for Workmen's Compensation and Public Liability Insurance, also Property Damage and all other necessary insurance, as required by the Owner, Contractor or by the State in which the work is performed. The subcontractor shall provide a weekly certified payroll report.

Minimum coverage amounts shall be as specified in Article 5, Paragraph 15, of this Subcontract.

## **6.. Special Provisions**

This contract shall not be assigned by the Subcontractor.

1.) Subcontractor shall commence work within Seven (7) Days of written notice by Contractor in accordance with the mutually agreed upon schedule as show in Schedule A and, except as otherwise provided herein, shall not vacate the project without the Contractor's Consent, unless Contractor abandons the site or ceases work at the at the site for more than 2 weeks. If Contractor abandons the site or ceases work on the site for more than two weeks Subcontractor may provide 5 days written notice and then terminate this contract and any obligation to continue the work under this contract without further liability to the General Contractor or Owner

2.) All work to be performed in accordance with the requirements of the Tennessee Department of Transportation Contract Documents.

3.) Subcontractor will work in a safe and professional manner.

4.) Subcontractor will perform work in accordance with local laws and regulations.

5.) The Subcontractor shall provide to the Contractor copies of weekly certified payroll.

#### **Additional Terms:**

"The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The Contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of Department assisted contracts

#### **7.: GENERAL TERMS AND CONDITIONS**

1. **CONTRACT DOCUMENTS:** The "Contract Documents" (as the term is herein used) consist of: The general conditions of the Prime Contract between the Contractor and the owner, the plans and specifications prepared for the job, including all modifications made in such plans and specifications prior to the date of this Subcontract, all details necessary to complete the drawings, and this subcontract. The Contract Documents are to be construed together so that all of the work called for or indicated anywhere therein relating to the Subcontractor's work is to be done by the Subcontractor is contained completely in Schedule A Scope of Work. In case of any conflicting provisions within the Contract Documents, the provisions, of this Agreement and Schedule A shall take precedence. When the Contract Documents provide for the exercise of authority by an architect, engineer, contracting officer or other agency, the Subcontractor shall be subject to such authority by instructions issued through the contractor.

The Contract Documents are furnished by the Owner and are the product of the Owner and/or its agents; thus, the contractor does not warranty the Contract Documents for accuracy, constructability, or design. Changes in engineering design or methods due to inaccurate information within the Contract Documents will be presented as such to the Contractor and any cost or time deviations required by such items will be changes in the scope of services provided by Subcontractor.

2. **COMPLIANCE WITH CONTRACT DOCUMENTS:** The Subcontractor's work shall be executed and completed wholly in accordance with the Contract Documents and in compliance with all of the laws and ordinances bearing on construction of the job, and the Subcontractor shall promptly notify the Contractor in writing if anything contained in the Contract Documents is at variance therewith.  
The Subcontractor is bound to the Contractor by the terms of the Contract

Documents and assumes toward the Contractor with respect to the Subcontractors' work, all of the obligations and responsibilities that the contractor by the Contract Documents, has assumed toward the Owner.

3. **MATERIALS AND WORKMANSHIP:** Unless otherwise specifically provided for in other parts of the Contract Documents, all workmanship, equipment, materials, and articles incorporated in the work covered by this subcontract are to be of the best grade of their respective kinds for the purpose. The subcontractor shall furnish to the Contractor for its approval, the name of the manufacturer of the machinery and of the mechanical and other equipment which it contemplates incorporating in the work, together with performance plates, performance capacities, and other pertinent information. When required by the specifications, or when called for by the owner or by the specifications, or when called for by the Owner or the Contractor, the Subcontractor shall furnish the Contractor for approval full information concerning the materials or articles which it contemplates incorporating in the work. Samples of materials shall be submitted for approval when so directed. Machinery, equipment, materials, and articles installed or used without such approval shall be at the risk of subsequent rejection.
4. **FEE'S PERMITS, LICENSES:** The subcontractor shall obtain and pay for all necessary , professional licenses, , and all performance or guarantee bonds (not required), and shall give access for inspections required by the Contract Documents or by law or municipal ordinances.
5. **INSPECTION:** The contractor shall have the right to make such inspections and tests as are reasonable during the progress of the work, and the Subcontractor shall provide sufficient, safe, and proper facilities at all times for such inspections by the Contractor or the Contractor's authorized employees or agents, and the Subcontractor shall, within 24 (Twenty Four) Hours after receiving notice from the Contractor to the effect, proceed or remove from the job site all work or material condemned or rejected by the Contractor, whether worked or unworked and shall, at the Subcontractor's expense, take down and remove all portions of the Subcontractor's work which the Contractor shall notice condemn or reject as unsound, improper, or in any way failing to conform to the Contract Documents, and the Subcontractor shall at once, at its expense, make good all work so condemned or rejected and all property damaged or destroyed by such removal.
6. **PROGRESS OF WORK:** Time is of the essence of this agreement. The subcontractor agrees to commence and to complete the Subcontractor's work within the time set forth in Article 3 (Three) , in accordance with the mutually agreed upon schedule as shown in Schedule A and to do the Subcontractor's work at such times and in such quantities as in the judgment of the Contractor are required for the best possible progress of the construction for the job and the Subcontractor shall so conduct the Subcontractor's work as to facilitate, and so as not to interfere with or delay, the work of the Contractor, any other Subcontractor's work, or any other contractor employed on job. The Subcontractor shall maintain close contact with the job at all times and the Subcontractor shall be wholly responsible for the installation in the job of the Subcontractor's work in the proper sequence and at the proper time as indicated by the Contractor's project schedule established in Schedule A. In case the commencement, prosecution, or completion of the Subcontractor's work shall be



delayed, or be about to be delayed, because of strikes, fires, earthquakes, cyclones, casualties of like nature, significant rain fall events or causes wholly beyond the control of the Subcontractor, the Contractor shall grant such extension of time, if request therefore is made in writing to it within 7 (Seven) Business Days of the occurrence of any such cause of delay, and if an extension of time is not requested and obtained from the Contractor, the delay, however caused, shall not be excused. In the event Subcontractor's work is delayed by the Contractor or anyone for whom the Contractor is responsible, Subcontractor shall be entitled to an extension of time and additional compensation.

7. **SUPERVISION:** The Subcontractor shall keep a competent foreman or superintendent or its work at all times during progress of the work, with authority to act for it.
8. **CHANGES:** Additions, omissions, or alternations to or in the Subcontractor's work may be ordered by the Contractor, without invalidating this Agreement, at any time prior to the completion of the Subcontractor's work, but no such changes shall be made except by a written order signed by the Contractor, in which the addition to the or deduction from the subcontract sum, together with additional time, if any, for the performance thereof, shall be stated, if such charges have been determined by the Contractor and Subcontractor in respect of the work or portion of the work covered by this subcontract. If such addition to or deduction from the contract sum or the additional time allowance have not been determined by the Contractor and Subcontractor at the time such change is ordered in the work hereunder, the Subcontractor shall proceed with the work under the Contractor's instructions and the amount of such price change and time allowance shall correspond with those allowed by mutual agreement of the Contractor and Subcontractor in respect of the Subcontractor's work or portion of the work. No claims for extra work shall be made unless written agreement therefore is made prior to the execution of such extra work by the Subcontractor. If the Subcontractor's work is based upon estimated quantities and payment therefore is to be made at unit prices, the Subcontractor shall assume all risks as to the increase or decrease of such quantities.
9. **PROTECTION, HEATING, HOISTING, POWER, LIGHTING AND WATER:** All protection, , hoisting and power required or desired by the Subcontractor for the execution of the Subcontractor's work shall be provided wholly by the Subcontractor and at its expense unless specific provisions to the contrary are made in this agreement, provisions to the contrary elsewhere in the Contract Documents notwithstanding. The Subcontractor shall be solely answerable for the safe, proper, and lawful construction, maintenance, and use of all hoists, scaffolds, ways and tools used by the Subcontractor.
10. **Taxes :** If any personal property delivered or used under this subcontract be determined to be taxable under sales, use, excise or other taxes applicable to the sale or delivery of personal property, the Subcontractor shall be subject to and liable for any levy there for provided by law without any recourse against the Contractor. If any such payment is not made by the Subcontractor, said tax may be paid by the Contractor with right to withhold from payments under this subcontract the amount of any tax so paid.
11. **Subcontracts:** No part of this subcontract shall be sublet nor shall it be assigned without first securing the express written approval of the Contractor, and the Contractor shall not be obligated to consent to any such subletting or assignment.
12. **Clean-up:** The Subcontractor shall practice good housekeeping daily and at all times keep the premises free from accumulations of waste material or rubbish caused by its employees or work, excluding grouting and drilling spoils. At the completion of its

work, the Subcontractor shall remove from the premises all its rubbish, implements, and surplus materials and shall leave its work "broom clean" or its equivalent, excluding grouting and drilling spoils.

13. **Subcontractor's employees:** All employees of the Subcontractor shall be skilled in their trades. For reasonable cause, any employee of the Subcontractor may be refused admittance to the site or may be requested to leave the site at any time by the Contractor. In the event that the employee or employees of the Subcontractor are so barred from the job, the Subcontractor shall immediately replace such employee or employees with employees satisfactory to the Contractor.
14. **SOCIAL SECURITY:** Social Security Insurance payments shall be made by the Subcontractor with respect to the subcontractor employees required by the social security acts of the United States and the State in which the job is located. Provisions of this paragraph shall apply to any amendment to such laws which may subsequently be enacted.
15. **INDEMNIFICATION AGAINST CERTAIN LIABILITIES:** To the fullest extent permitted by law, the Subcontractor agrees to indemnify the Contractor and the Owner and to hold each of them forever harmless from and against all expenses, claims, suits, or judgments, by or on behalf of any person, firm, or corporation, arising out of the performance of Subcontractor's Work, provided that such expense, claim, suit or judgment is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by Subcontractor's negligence. Liability insurance policies shall be maintained by the Subcontractor such as will protect the Subcontractor, the Contractor, and the Owner from claims for damage to property and injury to persons, including death to any person or persons, which may arise out of the Subcontractor's work or goods and materials used in regard thereto. Such policies of insurance, and all other policies of insurance required by the Contract Documents shall be open to the inspection of the Contractor, and the Subcontractor shall, if required by the Contractor, furnish properly authenticated certificates of such policies of insurance from insurance companies acceptable to the Contractor. Unless higher limits or greater overages are specified elsewhere in the Contract Documents, the Subcontractor shall maintain Commercial General Liability insurance, including but not limited to, Broad Form Property Damage and Independent Contractor's Liability, covering Personal injury, Bodily Injury and Property Damage to a combined single limit of \$1,000,000 each occurrence. Comprehensive Automobile Liability Insurance shall be maintained covering owned, hired, and non-owned automobiles for Bodily Injury and Property Damage to a combined single limit of \$1,000,000 each occurrence. Subcontractor shall also maintain Workers Compensation in compliance with the applicable state and federal laws, together with Employer's Liability Insurance with a limit of \$500,000. Subcontractor shall maintain umbrella liability insurance coverage on the commercial General Liability, Business Automobile, and Employer's Liability policies described above with a combined single limit of \$5,000,000 each occurrence.
16. **DAMAGE TO SUBCONTRACTOR'S WORK:** Subcontractor will use good industry practice to protect its work while on site from damage, however, Damages to the Subcontractor's work resulting from acts of God, fire, public enemy, civil commotion, vandalism acts of omission or commission by any person, firm, or corporation or from any other cause, are excluded by the Subcontractor.
17. **CLAIMS:** Subcontractor agrees to give notice in writing and make all claims for which Owner is, or may be, liable in the manner provided and in a time framework which is consistent with the Principal Contract so that Contractor may timely give

notice of such claims to Owner. Provided that the preceding sentence does not require earlier action, written notice of such claims shall be given by Subcontractor to Contractor within (1) One Week prior to the beginning of the work or the event or condition for which such claim is to be made, or immediately upon Subcontractor's first knowledge of the event or condition. Otherwise, such claims shall be deemed waived. Subcontractor shall give Contractor written notice of all claims for which Contractor is, or may be liable, within 5 (Five) business Days of Subcontractor's reasonable knowledge of the event for which claim is made; otherwise, such claims shall be deemed waived. This notice period takes precedence over any other notice provision provided by, or in, this Subcontract.

18. **TERMINATION OF SUBCONTRACT:** If the Subcontractor becomes insolvent, or if a petition in bankruptcy be filed by or against it, or if it should make a general assignment for the benefit of creditors, or if a receiver should be asked or appointed for it, or if it should refuse or fail to supply enough properly skilled workmen or proper materials, labor, transportation, supplies, fuel, use of equipment, or any other items of its cost of the performance of its work hereunder, or fails to observe and comply with laws, regulations, ordinances, or the instruction of the Contractor, or otherwise be guilty of any substantial violation of any provision of this subcontract, or should the Subcontractor at any time refuse to start the Subcontractor's work promptly, or fail in any respect to prosecute the work with promptness and diligence, or if the Subcontractor shall fail in the performance of any of the agreements herein contained, and Subcontractor further fails, within 72 (Seventy-Two) hours after receipt of written notice from the Contractor to commence and continue correction of the claimed default or failure, the Contractor may, provide any such labor or materials, or other items, make payment to Subcontractor's subcontractor, or for any material, labor, transportation, supplies, fuel, use of equipment, or any other items of cost in the performance of the work, and deduct the cost thereof from any money then due or thereafter to become due to the Subcontractor under this subcontract. At its option, the Contractor may terminate the employment of the Subcontractor for said work and terminate this subcontract and may enter upon the premises and take possession for the purpose of completing the Subcontractor's work, of all materials, on the job site, and contract with or employ any other person or persons to finish the work; and in any such case of termination of this subcontract, the Subcontractor shall not be entitled to receive any further payment under this subcontract until the said work shall be wholly finished, at which time, if the unpaid balance of the amount to be paid under this subcontract shall exceed the reasonable expenses incurred by the contractor in finishing the work and all other charges, expense, or damage, such excess shall be paid by the Contractor to the Subcontractor; but, if such expense and damage shall exceed such unpaid balance, the balance from any other contract the subcontractor has with the Contractor may be used to offset such cost. The foregoing provision of this paragraph shall not be exclusive of, but shall be in addition to, any other rights or remedies that the Contractor may have in any such instance.
19. **TERMINATION OF PRIME CONTRACT:** The right to terminate the Prime Contract of any cause has been reserved by the Owner. In the event of termination of the Prime Contract by the owner, the Contractor shall give notice to the Subcontractor to immediately discontinue the work, the placing of order for materials, supplies, and facilities, and to take steps to procure cancellation of all existing orders or contracts upon terms satisfactory to the Owner. Settlement of the amount due under this subcontract shall be on the basis of full payment for such portion of the work actually completed, plus the actual cost of materials delivered or fabricated up to the date of termination, as determined by the owner's engineer or architect and the reasonable



costs incurred by Subcontractor as a result of the termination.

20. **BOND:** None Required

21. **CONSTRUCTION EQUIPMENT:** None

22. **WAIVERS:** None of the provisions of this subcontract shall be held to have been waived by the contractor by reason of any act whatever or in any manner whatsoever other than by an express waiver thereof signed by it.

23. **DEFECTIVE WORK AND MATERIALS:** The subcontractor shall provide sufficient access to its work at all times for inspection of the work by the Contractor, the Engineer/Owner or their authorized representatives. If any portion of Subcontractor's work is unacceptable to the owner's engineer of record or any of Subcontractor's materials are defective per the owner's engineer, Subcontractor shall have 72 (Seventy Two) Hours after receipt of written notice from Contractor to commence and continue correction of all portions of the defective work and remove from the site all material whether worked or un-worked which the owner's engineer has rejected as defective, unsound or improper, or as in any way failing to conform to the drawings and specifications, and shall make good all work so rejected and all other work damaged or destroyed in the making good of such rejected work.

24. **PATENT RIGHTS:** Royalties and costs arising from patents, without exception, are agreed to be included in the subcontract sum. Whenever the Subcontractor is required by the Contract Documents or desires to use any design, devise, material, or process covered by letters patent or copyright, the right for such use shall be provided for by suitable legal agreement with the patentee--or owner, and a copy of such agreement shall be filed with the Contractor. However, whether or not such agreement is made or filed as so required the Subcontractor and its surety in all cases shall indemnify and save harmless, the Contractor and the Owner from any and all claims for infringement by reason of the use of any such patented design, device, material, or process, and shall indemnify the aforesaid parties for any cost, expenses, and damages, including attorney fees, which they may be obliged to pay reason of any alleged infringement.

25. **OSHA COMPLIANCE:** The Subcontractor shall be responsible to the Contractor for compliance with all safety rules and regulations of the Federal Safety and Health Act of 1970, during the conduct of Subcontractor's performance hereunder. The Subcontractor shall indemnify the Contractor for fines, penalties and corrective measures that result from acts of commission or omission by the Subcontractor, his agents, employees, and assigns in failure to comply with such safety rules and regulations.

26. **NON-DISCRIMINATION IN EMPLOYMENT:** Subcontractor warrants that it shall at all times comply with applicable provisions relating to obligations of government contractors and subcontractors, which are incorporated in this agreement by reference, including the OFCCP Rules and Regulations, 41CFR60-1, et seq., (and the reporting, record-keeping and affirmative action program requirements set forth therein), incorporating the Equal Opportunity Clause of Executive Order 11246, as amended, the maintenance of no segregated facilities, the Vietnam Era Veterans' Readjustment Act of 1974, as amended, the Rehabilitation Act of 1973, as amended, and the filing of VET-100 forms as required by 41 CFR61-250.10

27. **DISPUTE RESOLUTION:** If a dispute arises out of or relates to this contract, or the breach thereof, and if the dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by mediation. The mediation shall

take place within 60 days from the date of a request for mediation by either party. The cost of mediation shall be shared equally by the parties. If the parties are not able to resolve the dispute by mediation or if the mediation does not take place within 60 days from the date of the request, the parties shall then proceed to litigation in any court of competent jurisdiction.

28. **COMPANY POLICIES:** Subcontractor agrees to abide by Contractor's company safety rules, regulations and policies.
29. **APPLICABLE LAW:** This subcontract is to be construed as a Tennessee contract, and shall be governed by the law of that state.
30. **No extra work** or changes under this contract will be recognized or paid for, unless agreed to in writing before the work is done or the changes made.

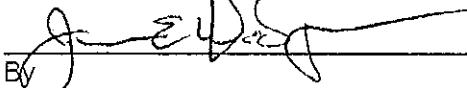
The foregoing provisions of this contract with any special conditions attached hereto and constitute the full intent and obligations of this subcontract.

IN CONSIDERATION WHEREOF, the said Contractor agrees that he will pay to the said **Attachment A Items**.

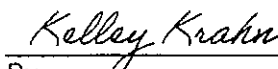
for said materials and work, the final payment, which the said Contractor shall pay to the said Subcontractor within 45 days after the submitted project progress invoice. The Contractor and Subcontractor for themselves, their successors, executors, administrators and assigns, hereby agree to the full performance of the covenants of this agreement.

IN WITNESS WHEREOF, they have executed this agreement the day and date written above.

UMA Geotechnical Construction, Inc.:

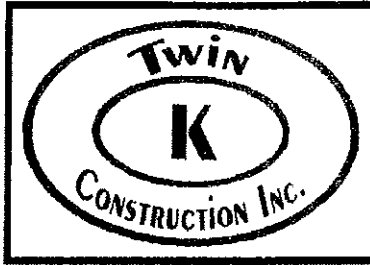
By  James E. Despain  
Date 9-25-19

Twin K Construction, Inc.

By   
Date 9/26/19

Contractor- Twin K Construction, Inc.

Blank



Addendum: Subcontractor Agreement  
Subcontractor: UMA, Geotechnical Construction, Inc.

**JOB: CNT234**

Required Contract Provisions Federal Aid Construction Contracts Acknowledgments and Agreement

In order to comply with FHWA-1273 Required Contract Provisions, we have included a copy of such form.

*"Except as otherwise provided for each section, the contractor shall insert in each subcontract all of the stipulations contained in these Required Contract Provision, and further require their inclusion in any lower tier subcontract or purchase order that may in turn be made. The Required Contract Provisions shall not be incorporated by reference in any case. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with these Required Contract Provisions."*

By signing below, you are stating:

1. That Twin Construction, Inc. has provided to you a copy of FHWA-1273 and that you have read, understand, and agree to your obligations as pertains to the Required Contract Provisions while working on this project.
2. That you will provide a copy of the Required Contract Provisions with any tier subcontract or purchase order that may in turn be made and furthermore you will provide a signed receipt from such tier to  
Twin K Construction, Inc.

Subcontractor: UMA

Signature: [Signature]

Date: 7-25-19

Twin K Construction, Inc.

Kelley Krahn

Date: 9/25/19



**FHWA-1273 -- Revised May 1, 2012 REQUIRED CONTRACT PROVISIONS FEDERAL-AID**

**CONSTRUCTION CONTRACTS I.**

General II. Nondiscrimination III. No segregated Facilities IV. Davis-Bacon and Related Act Provisions V. Contract Work Hours and Safety Standards Act Provisions VI. Subletting or Assigning the Contract VII. Safety: Accident Prevention VIII. False Statements Concerning Highway Projects IX. Implementation of Clean Air Act and Federal Water Pollution Control Act X. Compliance with Government wide Suspension and Debarment Requirements XI. Certification Regarding Use of Contract Funds for Lobbying ATTACHMENTS A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only) I. GENERAL 1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. Form FHWA-1273 must be included in all Federal-aid design build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA. 4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. II. NONDISCRIMINATION The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts. In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633. The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60- 1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3. Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633. The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements. 1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO: a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their

review of activities under the contract. b. The contractor will accept as its operating policy the following statement: "It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training." 2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so. 3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum: a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer. b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor. c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women. d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees. e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means. 4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived. a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration. b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions. c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees. 5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed: a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel. b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices. c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons. d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal. 6. Training and Promotion: a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved. b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e.,

apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a). c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each. d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion. 7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below: a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment. b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability. c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information. d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency. 8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship. 9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract. a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract. b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations. 10. Assurance Required by 49 CFR 26.13(b): a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference. b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate. 11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA. a. The records kept by the contractor shall document the following: (1) The number and work hours of minority and nonminority group members and women employed in each work classification on the project; (2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and (3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women; b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minorities, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on

board during all or any part of the last payroll period preceding the end of July. III. NONSEGREGATED FACILITIES This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes. IV. DAVIS-BACON AND RELATED ACT PROVISIONS This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects. The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements. 1. Minimum wages a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers. b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met: (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and (ii) The classification is utilized in the area by the construction industry; and (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination. (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative,



will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary. (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification. c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof. d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. 2. Withholding The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. 3. Payrolls and basic records a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee ( e.g. , the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency. (2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following: (i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct

and complete; (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3; (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract. (3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section. (4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code. c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12. 4. Apprentices and trainees a. Apprentices (programs of the USDOL). Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved. b. Trainees (programs of the USDOL). Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for

apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved. c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30. d. Apprentices and Trainees (programs of the U.S. DOT). Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program. 5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract. 6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5. 7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12. 8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract. 9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes' clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives. 10. Certification of eligibility. a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1). c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards. 1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section. 3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act,

which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section. 4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

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### Schedule A: Scope of Work

Item No.	Description	Quantity	Unit	Unit Price	Item Price
717-01	Mobilization	1	EA	\$ 15,000.00	\$ 15,000.00
805-05.02	Soil Nail Stabilization	45,000	LF	\$ 31.49	\$ 1,417,050.00
805-05.03	Reinforced Shotcrete Facing	13,200	SF	\$ 33.00	\$ 435,600.00
805-05.04	Secondary Wall (Outer Wall Face)	9,200	SF	\$ 36.50	\$ 335,800.00
610-12.02	Horizontal Drains	2,560	LF	\$ 27.50	\$ 70,400.00

**717-01 Mobilization:** There is one mobilization associated with this job. Additional mobilization required due to project scheduling or phasing implemented by the Contractor will be billed for accordingly.

**805-05.02 Soil Nail Stabilization:** Consists of either GR75 solid bar or hollow self-drilling bar. Unit quantity bid was provided by TDOT for bidding purposes; UMA will bill for the actual quantity placed.

**805-05.03 Reinforced Shotcrete Facing:** Consists of reinforcing steel, facing elements, drain strips, and initial bearing plates to create the battered initial shotcrete layer. There have not been any inclusions for grading, grubbing, or drainage, other than vertical wall drains that will drain into the backfill materials.

**805-05.04 Secondary Wall (Outer Wall Face):** Consists of reinforcing steel, facing elements, and longitudinal drainage elements. There have not been any inclusions for grading, leveling pads, or backfill materials.

**610-12.02 Horizontal Drains:** Consists of drains above and below the roadway surface. Includes open hole drilling methods and includes grouting the first five feet per TDOT recommendations.

**Additional Item Costs for Temporary Soil Nail Wall over base quoted cost per FT, CF, CY, or LF**

- Additional anchor grout over 0.23 cubic feet per linear foot installed, if required: \$36.00/CF (includes 20% waste)
- Additional Shotcrete over 0.015 cubic yards per square foot for the Primary Face: \$280.00/CY (includes 20% waste)
- Additional Shotcrete over 0.024 cubic yards per square foot for the Secondary Face: \$280.00/CY (includes 20% waste)
- Flash coat shotcrete due to sloughing wall face: \$280.00/CY
- Temporary casing of drains if borehole geometry cannot be maintained: \$35.00/LF

**Clarifications:**

1. Subcontractor will need to be provided a minimum bench width of 15 feet at all drilling locations for staging the equipment. The working bench will need to consist of suitable native site soils or compacted structural fill for supporting equipment.
2. All lifts must be no more than five feet tall and completed in a timely manner to coordinate with our production.

#### **Schedule A: Scope of Work**

3. The grading contractor is responsible for shaping the wall face and for any grading, for the working lifts, which may be required to perform the work with our drilling equipment.
4. If surveying or locating the wall is required during construction, it is to be done by others.
5. Potential utilities that may be located in the area of the working/drilling are to be located and clearly marked by others.
6. On-site portable water for mixing grout and/or drilling to be provided by Contractor.
7. Clean-up of drill spoils and water containment is the responsibility of the Contractor
8. Billing is for square footage installed regardless of any embedment or other coverage of portions of the wall.

#### **Exclusions:**

1. Demolition and/or repair of any existing pavement or structures.
2. Fill for bench access.
3. Provision of sanitary facilities for Subcontractor crews. Subcontractor assumes their crews will use onsite facilities.
4. Any and all state and federal permits required to perform the scope of services.
5. Layout, surveys, field surveying, as-built survey and measurements. Verification of any wall location or wall layout of any kind.
6. Easements, permits, General Contractor's license.
7. Monitoring of the existing conditions, including any pre-construction investigation/photos, during construction.
8. For the working bench in front of the various drilling locations, Subcontractor will need a 15 ft wide area for drilling machines.
9. Backfill materials
10. Traffic Control